

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS MENDICINO,

Defendant.

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8:08CR360

ORDER

This matter is before the court on the motion to continue by defendant Thomas Mendicino (Mendicino) (Filing No. 38). Mendicino seeks a continuance of at least thirty (30) days of the trial of this matter which is scheduled for February 2, 2009. Mendicino's counsel represents Mendicino consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Mendicino's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Mendicino's motion to continue trial (Filing No. 38) is granted.
2. Trial of this matter is re-scheduled for **March 9, 2009**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **January 28, 2009 and March 9, 2009**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendants' counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 28th day of January, 2009.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge